

1 RICK A YARNALL  
Chapter 13 Bankruptcy Trustee  
2 Daniel Riggs, Esq.  
Nevada Bar No. 12270  
3 Amanda Hunt, Esq.  
Nevada Bar No. 12644  
4 701 Bridger Ave., Ste. 820  
Las Vegas, NV 89101  
5 (702) 853-4500  
RAY13mail@lasvegas13.com

6  
7 **UNITED STATES BANKRUPTCY COURT**  
8 **DISTRICT OF NEVADA**

9 In re:

10 DUKE NIUMEA TAGALOA, JR. and  
TUPOU AMELIA TAGALOA,  
11 Debtors.

BK-S-22-12883-MKN

Hearing Date: October 27, 2022  
Hearing Time: 1:30 P.M.

12 **TRUSTEE'S OPPOSITION TO CONFIRMATION OF PLAN COMBINED WITH**  
13 **TRUSTEE'S REQUEST FOR DISMISSAL**

14 Comes now, Chapter 13 Bankruptcy Trustee, Rick A. Yarnall, and hereby objects to  
15 confirmation of the Chapter 13 Plan and recommends that confirmation be denied and the case  
16 dismissed.

17 On August 13, 2022, the instant bankruptcy case was commenced. See Docket No. 1. The §  
18 341(a) Meeting of Creditors was concluded on September 20, 2022. See Docket No. 24.  
19 Confirmation of the Debtors' proposed plan is currently pending. The Debtors bear the burden of  
20 proof on all elements of plan confirmation. See In re Hill, 268 B.R. 548, 552 (B.A.P. 9<sup>th</sup> Cir. 1994).  
21 A proposed plan cannot be confirmed until the Court has ensured that all requirements of §1325  
22 have been satisfied. See United Student Aid Funds, Inc. v. Espinosa, 130 S. Ct. 1367, 1380-81  
23 (2010). Trustee objects to confirmation of the proposed plan because it does not satisfy the

1 confirmation requirements of § 1325.

2 Initially, Trustee opposes confirmation as he has not completed his investigation into the  
3 Debtors' financial affairs. In order to complete this investigation, the Trustee requests the following:

- 4 - Copies of the Debtors' bank statements as follows:  
     ○ Chime #9724: Aug 1 thru Aug 13, 2022;  
     ○ Chime Savings: May 13 thru Aug 13, 2022;  
 5 - Signed Trustee's Conduit and Authorization forms (copies of which can be found on  
 6 the Trustee's website [www.lasvegas13.com](http://www.lasvegas13.com) as exhibits attached to the Trustee's  
 Conduit Guidelines);  
 7 - Copies of Debtors' paystubs and/or proof of income, from all sources, through  
 confirmation.

8 Further, Trustee makes the following objections to the Debtors' schedules and forms:

- 9 - Plan #1, Section 2.10 — The section is mathematically incorrect.

10 Debtors have a duty to cooperate with the trustee. Failure to do so can result in denial of  
 11 confirmation and the dismissal of the underlying case. Therefore, confirmation should be denied and  
 12 the case dismissed if Debtors fail to timely tender the above-mentioned documents to the Trustee.

13 Trustee further objects to confirmation as the proposed plan is not feasible because it fails to  
 14 provide for the priority claim of Utah State Tax Commission [Claim No. 5]. Because Debtors' plan  
 15 fails to comply with § 1325, confirmation should be denied.

16 Section 1325(a) requires the Court to withhold from confirming a plan until the plan  
 17 complies with the applicable provisions of Title 11. 11 U.S.C. § 1325(a). As such, Trustee requests  
 18 that this court withhold from confirming any proposed plan until the above objections have been  
 19 resolved.

20 ///

21 ///

22 ///

23 ///

**CONCLUSION**

For the foregoing reasons, the Trustee requests that confirmation be DENIED. Trustee further requests that, that the underlying case be DISMISSED if the Debtors fail to timely resolve this objection to confirmation or become delinquent in plan payments.

DATED this 13th day of October, 2022.

/s/ Amanda Hunt

Amanda Hunt, Esq.

Nevada Bar No.: 12644

701 Bridger Avenue, Suite 820

Las Vegas, Nevada 89101

Attorney for RICK A. YARNALL

Chapter 13 Bankruptcy Trustee

**CERTIFICATE OF MAILING**

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Bankruptcy Trustee; that I am over the age of 18 years; and that on the 13th day of October, 2022, I provided a copy of the Trustee's Opposition to Confirmation to each of the following by:

[X] a. **ECF System:**

- **MIGUEL A LOPEZ** mlopez@lopezbklaw.com,  
r43873@notify.bestcase.com
- **RICK A. YARNALL** ecfmail@LasVegas13.com,  
ecfimport@lasvegas13.com

[X] b. **United States mail, postage fully prepaid:**

DUKE NIUMEA TAGALOA, JR.  
TUPOU AMELIA TAGALOA  
280 RIVERSIDE ROAD  
APT. 11-H  
MESQUITE, NV 89027

/s/ Cindy L. Coons  
Cindy L. Coons, Employee of  
RICK A. YARNALL  
CHAPTER 13 BANKRUPTCY TRUSTEE